

Court No. - 72

Case :- CRIMINAL MISC ANTICIPATORY BAIL APPLICATION U/S 438
CR.P.C. No. - 11313 of 2023

Applicant :- Vivek Malik

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Nasir Hussain, Akhilesh Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

1. Heard Sri Akhilesh Kumar Pandey and Sri Nasir Hussain, learned counsels for the applicant and Sri Ram Mohit Yadav, learned AGA for the State and also perused the material available on records.

2. The applicant is seeking anticipatory bail in connection with Case Crime No. 366 of 2022, under Sections 420, 467, 468, 471, 409, 427, 201, 120-B of IPC, Police Station- Nakur, District- Saharanpur.

3. At the very outset, learned counsel for the applicant has claimed parity with the co-accused Sachin Kumar Sharma, who has already been granted anticipatory bail by another Bench of this Court in Criminal Misc. Anticipatory Bail Application u/s 438 Cr.P.C. No. 12973 of 2022 vide order dated 15.5.2023. Since the case of the applicant is at par with the co-accused who has already been granted anticipatory bail till the submission of police report, the applicant is also entitled for the same on the ground of parity. Learned counsel has also stated that the applicant has no criminal history.

4. The prayer for anticipatory bail has been vehemently opposed by learned AGA. However, the aforesaid factual aspects of the parity to the co-accused and also the fact of no criminal history assigned to the applicant, have not been disputed by him.

5. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the judgement passed by this Court in ***Nanha S/o Nabhan Kha vs. State of U.P., 1993 Cr.L.J. 938*** and the judgement passed by the Apex Court in ***Paras Ram Vishnoi vs. The Director, Central Bureau of Investigation, MANU/SCOR/22410/2021***, without expressing any opinion on the merits of the case, the Court is of the view that the applicant is entitled to be granted anticipatory bail in this case.

6. Accordingly, the anticipatory bail application is **allowed** with following directions:-

(A) In the event of arrest of the applicant involved in aforesaid case shall be released on anticipatory bail till the submission of police report, if any, under section 173(2) Cr.P.C. before the competent Court on his/her furnishing a personal bond of Rs.25,000/- with two sureties each of the like amount to the satisfaction of the Station House Officer of the police station concerned;

(B) The applicant shall co-operate with the Investigating Officer during

investigation and shall report to the Investigating Officer as and when required for the purpose of conducting investigation;

(C) The applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer; and

(D) The applicant shall not leave India without the previous permission of the Court.

7. In default or misuse of any of the conditions, the Public Prosecutor/ Investigating Officer/ first informant-complainant is at liberty to file appropriate application for cancellation of anticipatory bail granted to the applicant.

(Justice Krishan Pahal)

Order Date :- 12.10.2023

Siddhant